IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/09/2003

C O R A M

THE HONOURABLE MR. JUSTICE R.JAYASIMHA BABU
AND
THE HONOURABLE MR. JUSTICE S.K.KRISHNAN

W.P. NO. 9447 OF 2001

Mrs.Shantha Kumari ..... Petitioner

-Vs-

1. The Principal Accountant General (A & E)
No.261, Anna Salai,
Teynampet, Chennai-600 018.

2. The Director of Collegiate Education,
College Road, Chennai-600 006.

3. The Principal,
Arignar Anna Govt. Arts College,
Villupuram-605 602. ..... Respondents

Prayer : Petition under Article 226 of the Constitution of India
praying to issue a writ of mandamus directing the respondents to pay the petitioner the death benefits of the petitioner's late husband J. Ravisekharan, who was working under the 3rd respondent immediately with interest.

For petitioner :: Mr.Ramakrishna for
Mr.K.Viswanath

For respondents :: Mr.T.Ravikumar, ACGSC for R-1
Mrs.N.G.Kalaiselvi, Spl.G.P.
For RR 2 & 3

:ORDER

(Order of the Court was made by
R.JAYASIMHA BABU, J.)

It is most unfortunate that money properly due to a widow on the demise of her husband was withheld on the sole ground that her 80 year old father-in-law had filed a suit, in which he had made bald assertion that she

had a customary divorce with her husband. Except that nothing was said in the plaint about the so called custom as to how ancient it was, how long it has been in practice and who had practised it. Nothing was said about the date on which the alleged divorce took place nor the names of persons who were present at the time of such divorce. After filing the suit the plaintiff did not seek any interim order. The prayer sought in the suit was that money should not be paid to the daughter-in-law, who had been impleaded as the 7th defendant. Among the other parties impleaded in the suit were the Principal of the College and the Life Insurance Corporation of India which were required to pay amounts to the widow of the deceased by virtue of the nomination which the husband had made, long prior to his death.

2. Despite the absence of any interim direction from the court restraining the Accountant General or the Principal of the College from disbursing the amounts payable to the legal heir of the deceased, the Principal of the College appears to have developed doubts as to be permissibility of disbursing the amounts which had been sent to him by the Accountant General for settling the provident fund claim. The Accountant General, on being informed that a suit had been filed by the father-in-law, has chosen to act solely on an opinion given by the Government Pleader to the Principal, copy of which the Principal had sent to the Accountant General, and instructed the Principal not to disburse any amount to anybody till the final adjudication, and also returned to the Principal the Family Pension papers.

3. It is an admitted fact that the petitioner was married to the deceased Ravisekaran. It is also an admitted fact that Ravisekaran had nominated his wife as the nominee for the purpose of receiving the provident fund, pension and other benefits. There could therefore be no manner of doubt that she was indeed the person who was lawfully entitled to receive those monies in the absence of any reliable document to show that she had divorced her husband even before his demise. Her status as legal heir was beyond question. She was also the nominee nominated by her husband during his life time to receive the Provident Fund, gratuity and pension. The mere allegation of a customary divorce made in the suit without any details being given cannot be taken as proof of divorce or as a presumption that such customary divorce had taken place.

4. This writ petition was filed by the widow in the year 2001. It is a matter of regret that this court has not been able to give her relief for the last two years and she had to wait for it till this day.

5. Counsel for the father-in-law submitted that his client is now over 80 years old and he is on his death bed. Evidently the suit that has been filed is not being pursued. Counsel for the petitionerwidow submitted that she had to attend the court of Munsif on over 30 occasions as it was she who was eager to see the final decision being rendered in the suit.

6. The Accountant General has improperly deprived the widow of the monies which she was entitled to receive as the legal heir of her deceased husband.

7. Having regard to all the circumstances of the case, we

direct the Accountant General to ensure disbursement of all the moneies payable to the legal heirs of the deceased Ravisekaran, to his widow the petitioner herein, the couple being admittedly childless. The payment shall be made within four weeks from today.

8. As the monies properly payable to the petitioner has been wrongly withheld for over two years, she shall also be entitled to interest thereon at the rate of 6% per annum for two years preceding the date of this order. The Accountant General shall pay the interest and disburse the same within four weeks.

9. This writ petition is allowed with costs. The costs in the sum of Rs.5,000/- shall be payable in equal portions of Rs.2,500/- each by the father-in-law who has been the root cause of all the problems which the widow has to face in receiving the monies, and by the Accountant General, whose wholly unreasonable attitude has resulted in the widow being denied the monies properly due to her. Conseqeutnly, W.P.M.P. NO.51942/2002 is closed.

Index: Yes.
Website: Yes.

ns.

To
1. The Principal Accountant General (A & E)
No.261, Anna Salai,
Teynampet, Chennai-600 018.

2. The Director of Collegiate Education,
College Road, Chennai-600 006.

3. The Principal,
Arignar Anna Govt. Arts College,
Villupuram-605 602.